AN ORDINANCE TO AUTHORIZE THE ACQUISITION OF ELEVEN (11) PROPERTIES, PURSUANT TO THE CITY'S PARTICIPATION IN THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) HAZARD MITIGATION ASSISTANCE PROGRAM ("FEMA GRANT"); AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH PROPERTY ACQUISITION OF THE PROPERTIES INCLUDED IN THE FEMA GRANT PROGRAM; TO AUTHORIZE RECEIPT OF FUNDS FROM FEMA TO OFFSET ANY ACQUISITION COSTS IN ACCORDANCE WITH THE FEMA GRANT; TO AUTHORIZE THE MAYOR TO ENTER INTO AND EXECUTE A SUB-GRANTEE MANAGEMENT AGENCY ("GEMA"); TO WAIVE PORTIONS OF ARTICLE X OF THE PROCUREMENT AND REAL ESTATE CODE; TO AUTHORIZE THE CITY ATTORNEY TO USE THE ASSISTANCE OF OUTSIDE COUNSEL TO **EFFECTUATE** PROCURMENT ENVIRONMENTAL TESTS, APPRAISALS AND OTHER APPROPRIATE DUE DILIGENCE ITEMS TO EFFECTUATE THE ACQUISITION OF THE PROPERTIES; TO CHARGE AND PAY FOR ACQUISITION COSTS FROM THE LISTED FUND DEPARTMENT ORGANIZATION AND ACCOUNT NUMBERS IN THE FOLLOWING AMOUNTS: \$191,200.00-5052 (WATER & WASTEWATER R&E FUND) 170602 (DWM GREENWAY PLANNING & ACQUISITION) 5212001 (CONSULTING / PROFESSIONAL SERVICES) 7410000 (PLANNING & ZONING) AND PTAEO 17110874 (DWM HAZARD MITIGATION)101 (TASK) 505221391 (WATER & WASTEWATER R&E FUND) 5212001 (CONSULTING SERVICES) COA (CITY OF ATLANTA) AND \$5,316,525.00 - 5052 (WATER & WASTEWATER R&E FUND) 170602 (DWM GREENWAY PLANNING & ACQUISITION) 5411001 (LAND) (PLANNING MITIGATION) 101 (TASK) 505221391 (WATER & WASTEWATER R&E FUND) 5411001 (LAND) COA (CITY OF ATLANTA); AND FOR OTHER PURPOSES. (DWM HAZARD

WHEREAS, in January 2010, the City of Atlanta submitted a Sub-grant Project Application to the FEMA Hazard Mitigation Assistance Program ("FEMA Grant") for the acquisition of eleven (11) properties along the Peachtree Creek, and Nancy Creek that are located in the floodplain and subject to material losses due to repetitive flooding ("Properties"); and

WHEREAS, pursuant to Resolution No. 10-R-0233, adopted on February 15, 2010 and approved by the Mayor on February 23, 2010, the City was authorized to participate in

WHEREAS, property owners have agreed to sell their properties to the City together with the entire property-owners' right, title, and interest in all fixtures buildings, and improvements located on the above described real property, and any easement or servitude for the benefit of the property owners, free and clear of all liens, encumbrances, reservations, exceptions and modifications; and

WHEREAS, the Commissioner of the Department of Watershed Management recommends that the City acquire the Properties in accordance with the FEMA Grant requirements and regulations for the benefit of the respective Property owners and the public welfare in general to mitigate the negative impacts of repetitive flooding to the Properties and the surrounding watershed; and

WHEREAS, participation in the FEMA Grant contemplates that the acquisition of the Properties be effectuated pursuant to a strict time frame and through a process consistent with the procedures of the FEMA Grant, which necessitates waiving portions of the Procurement and Real Estate Code, Article X; and

WHEREAS, the City's participation in the FEMA Grant requires the City to acquire the Properties and perform all necessary due diligence to effectuate the acquisitions at the City's cost and then be reimbursed for all the acquisition costs from FEMA, which covers 85% of the initial estimated costs for the acquisitions, being Five Million, Five Hundred Seven Thousand, Seven Hundred Twenty-Five Dollars and No Cents (\$5,507,725.00) for the acquisitions (the "FEMA Contribution") and the Property owner, who is responsible for all costs exceeding the FEMA Contribution; and

WHEREAS, it is in the City's best interest to allow the Mayor or his designee the authority to enter into an agreement with the property owners to acquire the necessary property interests as approved under the Program.

# THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

**Section 1.** That the Mayor is hereby authorized to enter into and execute an Agreement with affected Property owners receiving FEMA grant Assistance from the FEMA Grant for the acquisition of the eleven (11) Properties participating in the FEMA Grant and is further authorized to enter into and execute all other appropriate documentation necessary to effectuate the acquisition of the Properties in accordance with the FEMA Grant.

**Section 2.** That the Mayor is hereby authorized to enter into and execute a Sub-grantee agreement with the Georgia Emergency Management Agency ("GEMA") to effectuate the acquisition of the Properties in accordance with the FEMA Grant.

**Section 3.** That the Mayor is further authorized to accept deeds to transfer title of the Properties to the City in appropriate form, as approved by the City Attorney.

**Section 4.** The Chief Procurement Officer is authorized to obtain title reports, title insurance, appraisals, environmental studies, survey and all other appropriate items necessary to effectuate the acquisition of the Properties and to ensure that the City acquires good title to the Properties, free and clear of all encumbrances ("Due Diligence Items").

Section 5. That the City Attorney is authorized to utilize outside counsel to effectuate the acquisition of the Properties; is authorized to prepare and approve all necessary and appropriate forms to effectuate the acquisition of the Properties; and is authorized to monitor and supervise the closing transactions with the property owners with the assistance of the City's real estate acquisition consultant.

Section 6. That all costs associated with the acquisition of the Properties, including without limitation all Due Diligence Items and closing costs associated with the acquisition of the Properties shall be paid from the listed Fund Department Organization and Account Number in the following amounts: \$191,200.00-5052 (Water & Wastewater R&E Fund) 170602 (DWM Greenway Planning & Acquisition) 5212001 (Consulting / Professional Services) 7410000 (Planning & Zoning) and PTAEO 17110874 (DWM Hazard Mitigation)101 (Task) 505221391 (Water & Wastewater R&E Fund) 5212001 (Consulting Services) COA (City of Atlanta) and \$5,316,525.00 - 5052 (Water & Wastewater R&E Fund) 170602 (DWM Greenway Planning & Acquisition) 5411001 (Land) 7410000 (Planning & Zoning) and PTAEO 17110874 (DWM Hazard Mitigation) 101 (Task) 505221391 (Water & Wastewater R&E Fund) 5411001 (Land) COA (City of Atlanta) and all reimbursements from the affected Property owners and FEMA shall be deposited into the acquisition account or otherwise accounted for through the closing of the acquisition of the Properties.

**Section 7.** That the Commissioner of the Department of Watershed Management is authorized to prepare and submit on behalf of the City all documentation, information or other items necessary to participate in the FEMA Grant in accordance with the requirements of the FEMA Grant.

**Section 8.** That Article X of the Procurement and Real Estate Code is hereby waived to effectuate the acquisition of the Properties in conjunction with the City's participation in the FEMA Grant.

**Section 9.** That all ordinances or parts or ordinances in conflict herewith are waived to the extent of the conflict.

RCS# 555 9/20/10 2:47 PM

#### Atlanta City Council

#### REGULAR SESSION

#### CONSENT II

#### REFER

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 2

Y	Smith	Y	Archibong	В	Moore	Y	Bond
NV	Hall	Y	Wan	Y	Martin	NV	Watson
Y	Young	В	Shook	Y	Bottoms	Y	Willis
Y	Winslow	Y	Adrean	Y	Sheperd	NV	Mitchell

AN ORDINANCE BY FINANCE/EXECUTIVE COMMITTEE

AN ORDINANCE TO AUTHORIZE THE ACQUISITION OF TWELVE (12) PROPERTIES, PURSUANT TO THE CITY'S PARTICIPATION IN THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) HAZARD MITIGATION ASSISTANCE PROGRAM ("FEMA GRANT"); AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH PROPERTY **OWNERS** AND **OTHER** APPROPRIATE **DOCUMENTS** FOR ACQUISITION OF THE PROPERTIES INCLUDED IN THE FEMA GRANT PROGRAM; TO AUTHORIZE RECEIPT OF FUNDS FROM FEMA TO OFFSET ANY ACQUISITION COSTS IN ACCORDANCE WITH THE FEMA GRANT; TO AUTHORIZE THE MAYOR TO ENTER INTO AND EXECUTE A SUB-GRANTEE **AGREEMENT** WITH THE **GEORGIA EMERGENCY** MANAGEMENT AGENCY ("GEMA"); TO WAIVE PORTIONS OF ARTICLE X OF THE PROCUREMENT AND REAL ESTATE CODE; TO AUTHORIZE THE CITY ATTORNEY TO USE THE ASSISTANCE OF OUTSIDE COUNSEL TO **EFFECTUATE** THE **ACQUISITION**; TO **AUTHORIZE** THE **PROCURMENT** OFFICER TO **OBTAIN** TITLE WORK, SURVEYS. ENVIRONMENTAL TESTS, APPRAISALS AND OTHER APPROPRIATE DUE DILIGENCE ITEMS TO EFFECTUATE THE ACQUISITION OF THE PROPERTIES; TO CHARGE AND PAY FOR ACQUISITION COSTS FROM THE LISTED FUND DEPARTMENT ORGANIZATION AND ACCOUNT NUMBERS IN THE FOLLOWING AMOUNTS: \$191,200.00 - 5052 (WATER & R&E FUND) 170602 (DWM GREENWAY PLANNING & WASTEWATER ACQUISITION) 5212001 (CONSULTING / PROFESSIONAL SERVICES) 7410000 (PLANNING & ZONING) AND \$5,316,525.00 - 5052 (WATER & R&E FUND) 170602 (DWM GREENWAY PLANNING & WASTEWATER ACQUISITION) 5411001 (LAND) 7410000 (PLANNING & ZONING); AND FOR OTHER PURPOSES.

WHEREAS, in January 2010, the City of Atlanta submitted a Sub-grant Project Application to the FEMA Hazard Mitigation Assistance Program ("FEMA Grant") for the acquisition of twelve (12) properties along the Peachtree Creek, and Nancy Creek that are located in the floodplain and subject to material losses due to repetitive flooding ("Properties"); and

**WHEREAS**, pursuant to Resolution No. 10-R-0233, adopted on February 15, 2010 and approved by the Mayor on February 23, 2010, the City was authorized to participate in the FEMA Grant; and

WHEREAS, property owners have agreed to sell their properties to the City together with the entire property-owners' right, title, and interest in all fixtures buildings, and improvements located on the above described real property, and any easement or servitude for the benefit of the property owners, free and clear of all liens, encumbrances, reservations, exceptions and modifications; and

WHEREAS, the Commissioner of the Department of Watershed Management recommends that the City acquire the Properties in accordance with the FEMA Grant requirements and regulations for the benefit of the respective Property owners and the public welfare in general to mitigate the negative impacts of repetitive flooding to the Properties and the surrounding watershed; and

WHEREAS, participation in the FEMA Grant contemplates that the acquisition of the Properties be effectuated pursuant to a strict time frame and through a process consistent with the procedures of the FEMA Grant, which necessitates waiving portions of the Procurement and Real Estate Code, Article X; and

WHEREAS, the City's participation in the FEMA Grant requires the City to acquire the Properties and perform all necessary due diligence to effectuate the acquisitions at the City's cost and then be reimbursed for all the acquisition costs from FEMA, which covers 85% of the initial estimated costs for the acquisitions, being Five Million, Five Hundred Seven Thousand, Seven Hundred Twenty-Five Dollars and No Cents (\$5,507,725.00) for the acquisitions (the "FEMA Contribution") and the Property owner, who is responsible for all costs exceeding the FEMA Contribution; and

WHEREAS, it is in the City's best interest to allow the Mayor or his designee the authority to enter into an agreement with the property owners to acquire the necessary property interests as approved under the Program.

## THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

**Section 1.** That the Mayor is hereby authorized to enter into and execute an Agreement with affected Property owners receiving FEMA grant Assistance from the FEMA Grant for the acquisition of the twelve (12) Properties participating in the FEMA Grant and is further authorized to enter into and execute all other appropriate documentation necessary to effectuate the acquisition of the Properties in accordance with the FEMA Grant.

**Section 2.** That the Mayor is hereby authorized to enter into and execute a Sub-grantee agreement with the Georgia Emergency Management Agency ("GEMA") to effectuate the acquisition of the Properties in accordance with the FEMA Grant.

**Section 3.** That the Mayor is further authorized to accept deeds to transfer title of the Properties to the City in appropriate form, as approved by the City Attorney.

**Section 4.** The Chief Procurement Officer is authorized to obtain title reports, title insurance, appraisals, environmental studies, survey and all other appropriate items necessary to effectuate the acquisition of the Properties and to ensure that the City acquires good title to the Properties, free and clear of all encumbrances ("Due Diligence Items").

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**Section 5.** That the City Attorney is authorized to utilize outside counsel to effectuate the acquisition of the Properties; is authorized to prepare and approve all necessary and appropriate forms to effectuate the acquisition of the Properties; and is authorized to monitor and supervise the closing transactions with the property owners with the assistance of the City's real estate acquisition consultant.

**Section 6.** That all costs associated with the acquisition of the Properties, including without limitation all Due Diligence Items and closing costs associated with the acquisition of the Properties shall be paid from the listed Fund Department Organization and Account Number in the following amounts: \$191,200.00-5052 (Water & Wastewater R&E Fund) 170602 (DWM Greenway Planning & Acquisition) 5212001 (Consulting / Professional Services) 7410000 (Planning & Zoning) and \$5,316,525.00 - 5052 (Water & Wastewater R&E Fund) 170602 (DWM Greenway Planning & Acquisition) 5411001 (Land) 7410000 (Planning & Zoning) and all reimbursements from the affected Property owners and FEMA shall be deposited into the acquisition account or otherwise accounted for through the closing of the acquisition of the Properties.

**Section 7.** That the Commissioner of the Department of Watershed Management is authorized to prepare and submit on behalf of the City all documentation, information or other items necessary to participate in the FEMA Grant in accordance with the requirements of the FEMA Grant.

**Section 8.** That Article X of the Procurement and Real Estate Code is hereby waived to effectuate the acquisition of the Properties in conjunction with the City's participation in the FEMA Grant.

**Section 9.** That all ordinances or parts or ordinances in conflict herewith are waived to the extent of the conflict.

<u>Part II: Legislative White Paper:</u> (This portion of the Legislative Request Form will be shared with City Council members and staff)

#### A. To be completed by Legislative Counsel:

Committee of Purview: City Utilities

Caption: AN ORDINANCE TO AUTHORIZE THE ACQUISITION OF TWELVE (12) PROPERTIES, PURSUANT TO THE CITY'S PARTICIPATION IN THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) HAZARD MITIGATION ASSISTANCE PROGRAM ("FEMA GRANT"); AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH PROPERTY OWNERS AND OTHER APPROPRIATE DOCUMENTS FOR THE ACQUISITION OF THE PROPERTIES INCLUDED IN THE FEMA GRANT PROGRAM; TO AUTHORIZE RECEIPT OF FUNDS FROM FEMA TO OFFSET ANY ACQUISITION COSTS IN ACCORDANCE WITH THE FEMA GRANT; TO AUTHORIZE THE MAYOR TO ENTER INTO AND EXECUTE A SUB-GRANTEE AGREEMENT WITH THE GEORGIA EMERGENCY MANAGEMENT AGENCY ("GEMA"); TO WAIVE PORTIONS OF ARTICLE X OF THE PROCUREMENT AND REAL ESTATE CODE; TO AUTHORIZE THE CITY ATTORNEY TO USE THE ASSISTANCE OF OUTSIDE COUNSEL TO EFFECTUATE THE ACQUISITION; TO AUTHORIZE THE CHIEF PROCURMENT OFFICER TO OBTAIN TITLE WORK, SURVEYS, ENVIRONMENTAL TESTS, APPRAISALS AND OTHER APPROPRIATE DUE DILIGENCE ITEMS TO EFFECTUATE THE ACQUISITION OF THE PROPERTIES; TO CHARGE AND PAY FOR ACQUISITION COSTS FROM THE LISTED FUND DEPARTMENT ORGANIZATION AND ACCOUNT NUMBERS IN THE FOLLOWING AMOUNTS: \$191,200.00 - 5052 (WATER & WASTEWATER R&E 170602 (DWM GREENWAY PLANNING & ACQUISITION) 5212001 (CONSULTING PROFESSIONAL SERVICES) 7410000 (PLANNING & ZONING) AND \$5,316,525.00 - 5052 (WATER & WASTEWATER R&E FUND) 170602 (DWM GREENWAY PLANNING & ACQUISITION) 5411001 (LAND) 7410000 (PLANNING & ZONING); AND FOR OTHER PURPOSES.

Council Meeting Date: September 20, 2010

Requesting Dept.: Watershed Management

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

Example: The purpose of this legislation is to anticipate funds from a local assistance grant to purchase child safety seats.

The purpose of this legislation is to authorize the acquisition of twelve (12) substantially damaged Properties, pursuant to the City's participation in the Federal Emergency Management Agency (FEMA) Mitigation Assistance Program, Authorizing the Mayor to enter into Sub-grantee agreement with the Georgia Emergency Management Agency (GEMA) and other appropriate documents for the acquisition of the properties included in the FEMA grant program. To waive portions of article X of the procurement and real estate code to authorize the City Attorney to use the assistance of outside counsel to effectuate the acquisition. To authorize the chief of Procurement Officer to obtain title work, surveys, environmental tests, appraisals and other appropriate due diligence items to effectuate the acquisition of the properties.

2. Please provide background information regarding this legislation.

Example: The task force of homelessness conducted a study regarding homelessness, its impact and consequences on the City. This resolution reflects the Mayor's desire to open a twenty-four hour center that will respond to the needs of the homelessness in Atlanta.

City Council previously approved legislation authorizing the application for and acceptance of FEMA grant funding to acquire these properties. The properties have been repetitively flooded during several rain events in the past ten years and have been declared substantially damaged after the 2009 rain event. The acquisition of these properties will eliminate future flooding and will provide partial flooding relief to the neighboring properties.

3. <u>If A</u>	Applicable/Known:					
(a)	Contract Type (e.g. Professional Services, Construction Agreement, etc):					
(b)	Source Selection:					
(c)	Bids/Proposals Due:					
(d)	Invitations Issued:					
(e)	Number of Bids:					
<b>(f)</b>	Proposals Received:					
(g)	Bidders/Proponents:					
(h)	Term of Contract:					
170602 (Planni	nd Account Center ( <i>Ex. Name and number</i> ): \$191,20 2 (DWM Greenway Planning & Acquisition) 5212001 (Cing & Zoning) and \$5,316,525.00 - 5052 (Water & Wasiway Planning & Acquisition) 5411001 (Land) 7410000 (	Consulting / Professional Services) 7410000				
Fund:	Account:	Center:				
5. Sou	urce of Funds: Example: Local Assistance Grant					
6. Fis	scal Impact: \$5,507,725.00					
Examp Center	ple: This legislation will result in a reduction in the are Number	mount of to Fund Account				
7. Met	thod of Cost Recovery: Grant					
Examp	oles:					

- a. Revenues generated from the permits required under this legislation will be used to fund the personnel needed to carry out the permitting process.
- b. Money obtained from a local assistance grant will be used to cover the costs of this Summer Food Program.

This Legislative Request Form Was Prepared By: Seham Abdulahad

### TRANSMITTAL FORM FOR LEGISLATION

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TO: MAYOR'S OFFICE	ATTN: Chief of Staff
Dept.'s Legislative Liaison:	Maisha L. Wood
Contact Number:	(404) 330-6887
Originating Department: Committee(s) of Purview:	Department of Watershed Management City Utilities
Chief of Staff Deadline:	n/a
Anticipated Committee Meeting l	Date(s):September 14, 2010
Anticipated Full Council Date: _	September 20, 2010
Legislative Counsel's Signature:	Mun Kland
Commissioner Signature: <u>Po</u>	sent of identia xo
Chief Procurement Officer Signa	
<u>CAPTION</u>	
PARTICIPATION IN THE FEDERAL EMER ASSISTANCE PROGRAM ("FEMA GRANT"): WITH PROPERTY OWNERS AND OTHER PROPERTIES INCLUDED IN THE FEMA GRATO OFFSET ANY ACQUISITION COSTS IN MAYOR TO ENTER INTO AND EXECUTE A MANAGEMENT AGENCY ("GEMA"); TO WA ESTATE CODE; TO AUTHORIZE THE CITY EFFECTUATE THE ACQUISITION; TO AUTHORIXE THE ACQUISITION OF THE FROM THE LISTED FUND DEPARTMENT (AMOUNTS: \$191,200.00 – 5052 (WATER & WA ACQUISITION) 5212001 (CONSULTING / PS5,316,525.00 – 5052 (WATER & WASTEW)	ISITION OF TWELVE (12) PROPERTIES, PURSUANT TO THE CITY'S GENCY MANAGEMENT AGENCY (FEMA) HAZARD MITIGATION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT APPROPRIATE DOCUMENTS FOR THE ACQUISITION OF THE ANT PROGRAM; TO AUTHORIZE RECEIPT OF FUNDS FROM FEMA ACCORDANCE WITH THE FEMA GRANT; TO AUTHORIZE THE SUB-GRANTEE AGREEMENT WITH THE GEORGIA EMERGENCY IVE PORTIONS OF ARTICLE X OF THE PROCUREMENT AND REAL ATTORNEY TO USE THE ASSISTANCE OF OUTSIDE COUNSEL TO HORIZE THE CHIEF PROCURMENT OFFICER TO OBTAIN TITLE APPRAISALS AND OTHER APPROPRIATE DUE DILIGENCE ITEMS IE PROPERTIES; TO CHARGE AND PAY FOR ACQUISITION COSTS ORGANIZATION AND ACCOUNT NUMBERS IN THE FOLLOWING ASTEWATER R&E FUND) 170602 (DWM GREENWAY PLANNING & ROFESSIONAL SERVICES) 7410000 (PLANNING & ZONING) AND ATER R&E FUND) 170602 (DWM GREENWAY PLANNING & NING & ZONING); AND FOR OTHER PURPOSES.
FINANCIAL IMPACT (if any): \$5	,507,725.00
Mayor's Staff Only	
Received by CPO:(date)  Received by Mayor's Office:	Received by LC from CPO:(date)
(date)	
Submitted to Council:	(date)